



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800 Fax (703) 583-3821

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

May 10, 2012

Community Development Authority
c/o Mr. John Simpson
1201 Central Park Boulevard
Fredericksburg, Virginia 22404

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

T.S.C.
c/o Mr. Gary Schaal
1705 Platt Boulevard
P.O. Box 16708
Surfside Beach, South Carolina 29587

Re: Virginia Water Protection (VWP) Individual Permit Number 00-1816
Celebrate Virginia! North, Stafford County, Virginia
Approval of Request for Minor Modification

Dear Mr. Simpson and Mr. Schaal:

The Virginia Department of Environmental Quality (DEQ) has received your request to modify VWP Individual Permit No. 00-1816 issued on July 20, 2012.

In the letter dated and received January 2, 2012, Williamsburg Environmental Group, Inc. requested, on your behalf, that the permit be modified to document the resolution of compliance issues associated with NOV No. 2009-01-NRO-101, reflect the reduction in surface water impacts (6,029 linear feet of stream channel and 0.16 acre of palustrine forested wetlands) as a result of further refinement of the site design, and clarify the minimum instream flow monitoring requirements.

In accordance with your request and pursuant to the VWP Permit Program Regulation 9 VAC 25-210-180 and § 401 of the Clean Water Act Amendments of 1977, Public Law 95-217, DEQ approves your request to modify the above referenced permit. DEQ has determined that this request qualifies for a Minor Modification in accordance with VWP Permit Program Regulation 9 VAC 25-210-180.F.5. The Special Conditions of the VWP Individual Permit No. 00-1816 have been modified to reflect the Minor Modification.

Please note that this letter is an official component of the permit and should be retained in your files. If you have any questions, please contact Dell Cheatham at 703-583-3805 or John.cheatham@deq.virginia.gov.

Respectfully,

Trisha M. Beasley
Regional VWPP Program Manager

Enclosures: Revised Permit Cover Page, Revised Part I – Special Conditions, Part II – General Conditions

cc: Ms. Loretta Cummings, Williamsburg Environmental Group, Inc. – VIA EMAIL
Mr. Hal Wiggins, U.S. Army Corps of Engineers, Fredericksburg Field Office – VIA EMAIL



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VWP Permit No. 00-1816

Effective Date: July 20, 2001

1st Minor Modification Date: November 13, 2003

2nd Minor Modification Date: December 15, 2006

3rd Minor Modification Date: May 18, 2007

4th Minor Modification Date: May 10, 2012

Expiration Date: July 20, 2016

VIRGINIA WATER PROTECTION PERMIT ISSUED PURSUANT TO THE STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT

Based upon an examination of the information submitted by the owner and in compliance with Section 401 of the Clean Water Act as amended (33 USC 1251 et seq.) and the State Water Control Law and regulations adopted pursuant thereto, the Department has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The Department finds that the effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to a significant impairment of state waters or fish and wildlife resources.

Permittee: Community Development Authority and T.S.C.

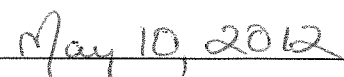
Address: Community Development Authority T.S.C.
1201 Central Park Blvd. 1705 Platt Blvd, P. O. Box 14708
Fredericksburg, Virginia 22404 Surfside Beach, South Carolina

Activity Location: The project site is located between the Rappahannock River and State Route 17 and bisected by State Route 670 in Stafford County, Virginia.

Activity Description: The project is to construct a master-planned community, on a \pm 1,478 acre parcel, known as "Celebrate Virginia! North." The project will consist of the construction of a commercial development along State Route 17, a corporate office facility, an 18-hole championship golf course and surface water withdrawal. The project will permanently impact 1.13 acres of palustrine forested (PFO) wetlands, 2.08 acres of palustrine scrub shrub (PSS) wetlands, 0.66 acre of palustrine emergent (PEM) wetlands, and 5.3 acres (24,302 linear feet) of stream channel. The mitigation will consist of off-site creation and preservation at Flintshire Farm in Caroline County, Virginia, on-site preservation of stream channel buffers and non-impacted wetlands, and the purchase of mitigation credits. The off-site mitigation will consist of the creation of 2.32 acres of PFO, 3.12 acres of PSS wetlands and 0.65 acre of PEM wetlands along with preservation of 8.5 acres of PFO wetlands and uplands. The on-site preservation will consist of 346.17 acres (42,707 linear feet) of stream channel and associated riparian buffer, and 10.89 acres non-impacted wetlands, including 1.60 acres of PFO, 7.97 acres of PSS, and 1.32 acres of PEM in perpetuity. Impacts associated with the relocation of the 46.3 linear feet of stream channel will not require compensatory mitigation as it is self mitigating. Wetland impacts associated with the 2006 Minor Modifications will be compensated for via the purchase of 0.26 wetland credit from the Burnley Farms Wetland Mitigation Bank in King George County, Virginia.

The permitted activity shall be in accordance with this Cover Page, Part I - Special Conditions and Part II - General Conditions, as set forth herein.


Thomas A. Faha, Regional Director


Date

PART I - SPECIAL CONDITIONS**A. Authorized Activities**

1. This permit authorizes the impact of 9.17 acres of surface waters, including 1.13 acres of palustrine forested (PFO) wetlands, 2.08 acres of palustrine scrub shrub (PSS) wetlands, 0.66 acre of palustrine emergent (PEM) wetlands, and 24,302 linear feet (5.3 acres) of stream channel.
2. Authorized impacts shall be as depicted on the impacts map entitled "Jurisdictional Area Impacts Map, Celebrate Virginia North" dated May, 18, 2011, revised April 4, 2012 and received April 6, 2012. Authorized activities shall be conducted as described in the Joint Permit Application dated September 27, 2000 and additional submittals dated through May 7, 2001 and minor modification requests dated July 21, 2003; November 14, 2006; March 2, 2007; and January 2, 2012, and additional submittals received through April 6, 2012.
3. The permittee shall notify the Department of Environmental Quality, Northern Regional Office (DEQ-NRO) of any additional impacts to surface waters, including wetlands, associated with this project. These impacts shall be subject to DEQ-NRO individual permit review and may require modification of this permit as well as mitigation.
4. The permittee is not authorized to withdraw water from the Rappahannock River for any purpose.
5. This permit is valid for a maximum of fifteen (15) years from the date of issuance. Reissuance of the permit may be necessary if any portion of the authorized activities or any permit requirement, including mitigation, has not been completed. In accordance with the Virginia Water Protection (VWP) Permit Regulation (9 VAC 25-210-80), submittal of an application for reissuance must be made to the DEQ-NRO no less than 180 days prior to the expiration date of this permit.

B. Clearing, Construction and Operation

1. Prior to the start of construction, all non-impacted surface waters within fifty (50) feet of any clearing, grading, and/or filling activities shall be clearly flagged or demarcated for the life of the construction activity within that area. The permittee shall notify all contractors that these marked areas are surface waters where no excavation or filling is to occur.
2. Equipment in temporarily impacted wetland areas shall be placed on mats. The equipment and mats shall be removed as soon as work is complete. Disturbed wetland areas shall be returned to original contours and stabilized within thirty (30) days, and restored to the original vegetated state.
3. All materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats, immediately stabilized to prevent entry into surface waters, managed such that leachate does not enter surface waters and completely removed within thirty (30) days following completion of construction activities.

Disturbed areas shall be returned to original contours and stabilized within thirty (30) days following removal of the stockpile, and restored to the original vegetated state.

4. The permittee shall ensure that all temporarily impacted wetland areas are re-vegetated with indigenous wetland plant species by the second year following disturbance.
5. All woody materials cut from existing wetland areas shall be removed and disposed of in an upland area.
6. All utility line work in surface waters shall be performed in such a manner as to minimize disturbance, and the area shall be returned to its original contours and stabilized immediately upon completion of the utility line.
7. All dredging and/or filling activities shall be performed so as to minimize turbidity increases of downstream waters.
8. All storm water management/best management practice facilities on the project site shall be maintained to prevent the discharge of contaminants to surface waters, for which they are designed to treat; and to comply with the State's Water Quality General Standard (9 VAC 25-260-20 A).
9. All storm water detention basins shall be built in accordance with the Department of Conservation and Recreation (DCR) Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
10. Wet or uncured concrete shall be strictly prohibited from entry into surface waters.
11. No machinery may enter flowing waters in connection with this project.
12. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all Department of Environmental Quality Regulations.
13. All construction and demolition activities associated with this project shall be accomplished in such a manner that construction and/or waste materials do not enter surface waters.
14. Erosion and sedimentation controls shall be designed in accordance with the DCR Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading, and maintained in good working order to minimize impacts to surface waters. These controls shall remain in place until the area stabilizes.
15. Within seven (7) days after final grade is achieved, all denuded areas shall be properly stabilized in accordance with the DCR Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
16. At crossings of perennial streams, pipes and culverts shall be countersunk a minimum of six (6) inches to provide for the re-establishment of a natural stream bottom and a low flow channel. Where culverts cannot be countersunk, open bottom culverts shall be used.

17. Installation of pipes and construction of road crossings shall occur in the dry via the implementation of cofferdams, sheet piling, or other means acceptable to the DEQ.
18. All surface waters affected by a road crossing shall be restored to their original elevations immediately following the construction of that particular crossing.
19. Project activities shall not disrupt the movement of aquatic life, unless authorized by this permit.
20. The construction or work authorized by this VWP permit shall be executed in a manner so as to minimize any adverse impact on instream beneficial uses as defined in § 62.1-10 (b) of the Code of Virginia.
21. Immediately downstream of the construction area, Water Quality Standards (9 VAC 25-260-50 et seq.) shall not be violated as a result of the construction activities.
22. All clearing in existing wetlands to accommodate golf course flight paths shall be done by hand and/or hand-held machine. Grubbing of stumps and/or land disturbing activities are strictly prohibited.
23. The permittee shall submit for review and approval a Nutrient and Integrated Pest Management Plan for the golf course to the DEQ-NRO within sixty (60) days of commencing golf course construction. This is to ensure that water quality impacts from runoff will be minimized.
24. Within the golf course, a minimum of a fifty (50) foot buffer area shall be established around existing waters, including wetlands, where the application of fertilizers, insecticides and fungicides shall be strictly prohibited. This is to ensure that over spraying into surface waters is kept at a minimum. This buffer should be clearly marked on the final development plans, and all grounds keepers shall be made aware of this buffer area prior to applications of pesticides and herbicides.

C. Mitigation

1. Compensatory mitigation for impacts to 9.17 acres of non-tidal surface waters, including 1.13 acres of PFO wetlands, 2.08 acres of PSS wetlands, 0.66 acre of PEM wetlands and 25,441 linear feet (5.47 acres) of stream channel as described in the Joint Permit Application for "Celebrate Virginia! North" dated September 27, 2000 and submittals and correspondence dated through April 6, 2012 shall consist of the following:
 - a. The on-site preservation of 10.89 acres non-impacted wetlands, including 1.60 acres of PFO, 7.97 acres of PSS, and 1.32 acres of PEM in perpetuity;
 - b. The on-site preservation of 346.17 acres (42,707 linear feet) of stream channel and associated riparian buffer in perpetuity;

- c. The off-site creation at the Flintshire Farm located in Caroline County, Virginia of 6.09 acre of non-tidal wetlands, including 2.32 acres of PFO wetlands; 3.12 acres of PSS; and 0.65 acres of PEM;
 - e. The purchase of 0.26 wetland mitigation credits (at a 2:1 compensation-to-loss ratio from the Burnley Farms Wetland Mitigation Bank in King George County, Virginia; and
 - f. The 46.3 linear feet of intermittent stream impact and the 0.008 acres of PEM impact will not require compensatory mitigation. The relocation of the intermittent stream channel (Conceptual Stream Relocation Plan dated September 2, 2003) is considered to be self-mitigating.
2. The permittee shall submit a Final Stream Relocation Plan to the DEQ-NRO for review and approval within thirty (30) days of the permit minor modification date. Activities in surface waters shall not begin until the Final Stream Relocation Plan is approved by the DEQ-NRO.
 3. The permittee shall submit a Final Compensatory Mitigation Plan to the DEQ-NRO for review and approval within sixty (60) days of the effective date of this permit. Activities in surface waters shall not begin until the Final Compensatory Mitigation Plan is approved by the DEQ-NRO. The Final Compensatory Mitigation Plan shall include the following:
Narrative description of the plan including goals and objectives, exact location of off-site mitigation areas, evidence of acquisition/purchase of the off-site mitigation area, existing and proposed grade, schedule for wetland creation and/or restoration, source of hydrology and water budgets for typical, driest and wettest years, soil amendments, plan view and cross section drawings of all created and/or restored wetland areas, plant species, planting scheme indicating expected zonation, planting schedule, a plan to control invasive species and noxious weeds, all structures and features considered necessary for the success of the plan, and number and locations of permanent photographic monitoring stations and ground water monitoring wells. Rooted seedlings or cuttings should originate from a local nursery or be adapted to local conditions. Vegetation should be native species common to the area, should be suitable for growth in local wetland conditions, and should be from areas within approximately 200 miles from the project site.
 4. The final compensatory mitigation plan shall include protection of surface waters (including compensatory mitigation areas and nonimpact surface waters) within the project boundary and at the mitigation site located at Flintshire Farm in perpetuity. These areas shall be surveyed or platted within 120 days of final plan approval, and the survey or plat shall be recorded in accordance with the requirements of this section. The restrictions, protections, or preservations, or similar instrument, shall state that no activity will be performed on the property in any area designated as a compensatory mitigation area or nonimpact state water, with the exception of maintenance or corrective action measures authorized by the board. Unless specifically authorized by the board through the modification of this VWP permit, or waiver thereof, this restriction applies to ditching, land clearing or the discharge of dredge or fill material. Such instrument shall contain the specific phrase "ditching, land clearing or discharge of dredge or fill material" in the limitations placed on the use of these areas. The protective instrument shall be recorded in the chain of title to the property. Proof of recordation shall be submitted within 60 days of survey or plat approval. This requirement is to preserve the integrity of compensatory mitigation areas and to ensure that additional

impacts to surface waters do not occur.

5. Construction of the compensatory mitigation areas described in Part I.C.1 shall occur prior to or concurrent with surface waters impacts.
6. Documentation of the mitigation bank credit purchase shall be submitted to DEQ-NRO within sixty (60) days of the effective date of the Second Minor Modification (authorized December 10, 2006)..
7. Post-grading elevations for the compensatory mitigation site(s) shall be sufficient to ensure that wetland hydrology will be achieved on the site to support the goals and objectives of the compensatory mitigation plan. The final as-built grading plan shall be submitted to the board prior to any planting and placement of ground water monitoring wells.
8. A site stabilization plan shall be provided for compensation sites involving land disturbance.
9. Planting of woody plants shall occur when vegetation is normally dormant unless otherwise approved in the final mitigation plan.
10. Point sources of stormwater runoff shall be prohibited from entering any wetland compensatory mitigation site prior to treatment by appropriate best management practices. Appropriate best management practices may include sediment traps, grassed waterways, vegetated filter strips, debris screens, oil and grease separators, and forebays.
11. The success of the compensatory mitigation shall be based on establishing and maintaining a viable wetland with suitable wetland hydrology, hydric soils or soils under hydric conditions, and hydrophytic plant communities.
12. Wetland hydrology shall be considered established if depths to the seasonal high water table are equal to or less than 12 inches below ground surface for at least 12.5% of the growing season, as defined in the USDA soil survey for the locality of the compensation site in all monitoring years under normal rainfall conditions, as defined in the water budget of the final mitigation plan.
13. The wetland plant community shall be considered established according to the performance criteria specified in the final mitigation plan and approved by the board. Species composition shall reflect the desired plant community types stated in the final mitigation plan by the end of the first growing season and shall be maintained through the last year of the VWP permit. Species composition shall consist of greater than 50% facultative (FAC) or wetter (FACW or OBL) vegetation, as expressed by plant stem density or aerial cover.
14. Noxious weeds shall be identified and controlled as described in the noxious weed control plan, such that they are not dominant species or do not change the desired community structure. The control plan shall include procedures to notify the board of any invasive species occurrences, methods of removal, and successful control.
15. If the compensatory mitigation area fails to be established as viable wetlands, the reasons for this failure shall be determined and a corrective action plan, schedule, and monitoring plan shall be submitted to the board for approval prior to or with the next required monitoring report. All problems shall be corrected by the permittee. Should significant changes be necessary to establish wetlands, the monitoring plan shall begin again, with year one being the year changes are complete.

16. The wetland boundary for the compensatory mitigation site shall be based on the results of the hydrology, soils, and vegetation monitoring data and shall be shown on the site plan. Calculation of total wetland acreage shall be based on that boundary at the end of the monitoring cycle.
17. Herbicides or algaecides shall not be used in or immediately adjacent to the compensatory mitigation site(s) without prior authorization by the board.

D. Construction Monitoring

A Construction Monitoring Report shall be submitted to the DEQ-NRO biannually, by the last day of April and October, for the life of the permit to document the progress of construction activities authorized by this permit. Construction Monitoring Reports shall include, at a minimum, the following:

- a. A written statement documenting the nature, location and timing of activities impacting surface waters, which have been completed, and a projected schedule of completion for those activities impacting surface waters which have not been completed; and
- b. Dated monitoring photographs showing representative construction activities, including but not limited to flagging non-impacted wetland areas, site grading, roadway and parking lot/garage construction, storm water management/best management practice facility construction, culvert installation, etc. Representative photographs shall be taken pre-construction, during construction, and upon completion of construction from pre-selected photographic monitoring points that shall remain the same throughout the entire construction process. The photographic monitoring points shall be identified on a plan view map submitted with the first construction report.

E. Compensatory Mitigation Site Monitoring

1. A post-grading survey, including spot elevations, of the sites for wetland compensatory mitigation shall be conducted by a licensed land surveyor or a professional engineer. The final as-built grading plan shall be submitted to the board prior to any planting and placement of ground water monitoring wells.
2. Photographs shall be taken at the compensatory mitigation sites from the permanent markers identified in the final mitigation plan, and established to ensure that the same locations and view directions at the site or sites are monitored in each monitoring period. These photographs shall be taken after the initial planting and in August or September every year for the life of the VWP permit.
3. Compensatory mitigation site monitoring for hydrology, soils, and hydrophytic vegetation shall begin at the first complete growing season (year 1) following compensatory mitigation site construction. Monitoring shall be required for years 1, 2, 3, 5, 7 and 10, with years 7 and 10 only required if the site success criteria were not achieved during the previous monitoring event.
4. The establishment of wetland hydrology shall be measured during the growing season, with the location and number of monitoring wells, and frequency of monitoring for each

site, set forth in the final monitoring plan. All hydrology monitoring well data shall be accompanied by precipitation data, including rainfall amounts, either from on site, or from the closest weather station. Once the wetland hydrology success criteria have been satisfied for a particular monitoring year, monitoring may be discontinued for the remainder of that monitoring year.

5. The presence of hydric soils or soils under hydric conditions shall be evaluated in accordance with the final mitigation plan.
6. The establishment of wetland vegetation shall be in accordance with the final mitigation plan. Monitoring shall take place in August or September during the growing season of each monitoring year, unless otherwise authorized in the monitoring plan.
7. The presence of invasive species shall be documented.
8. All Wetland Mitigation Monitoring Reports shall be submitted in accordance with the monitoring schedule (Part I.E.3) by October 31, with the exception of the last year of authorization, in which case the report shall be submitted at least 180 days prior to expiration of authorization under the permit. Any alterations and maintenance conducted on the compensatory mitigation sites shall be reported. Invasive species occurrences and control of these occurrences shall also be reported to the board.

F. Reporting

1. The board shall be notified in writing by certified letter at least 10 days prior to the start of construction activities authorized by this VWP permit. The notification shall include identification of the impact area at which work will occur and a projected schedule for completing work at each permitted impact area.
2. Violations of state water quality standards shall be reported within 24 hours to the DEQ-NRO office.
3. The permittee shall employ measures to prevent spills of fuels, lubricants, or other chemicals into surface waters. The permittee shall report any fish kills or chemical spills (including fuel spills) to the DEQ-NRO (703) 583-3800 immediately upon discovery. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at (800) 468-8892.
4. The permittee shall notify the DEQ-NRO in writing when unusual or potentially complex conditions are encountered which require debris removal or involve potentially toxic pollutants, and shall not take measures to remove the obstruction, material, or toxic pollutant, or change the location of any structure until approval by DEQ-NRO is received.
5. The written conservation covenants identified in Part I.C.3 shall be recorded within one hundred twenty (120) days of the approval of the Final Mitigation Plan, and notification of recordation received by the DEQ-NRO within Sixty (60) days of recordation.
6. The permittee shall submit to the DEQ-NRO biannual Construction Monitoring Reports (as required in Part I.D.1) by the last day of April and October for the life of the permit.

7. The permittee shall submit the Wetland Mitigation Monitoring Reports (as required in Part I.E.8) to the DEQ-NRO by the 31st of October beginning in the year mitigation areas are planted. The final mitigation report, due in the last year of the permit period, shall be submitted by October 31st or one hundred eighty (180) days prior to permit expiration, whichever occurs sooner.
8. Written communications and reports required by this permit shall be submitted with the appropriate Virginia Water Protection Permit number to the DEQ-NRO at the following address:

Department of Environmental Quality
Northern Regional Office
13901 Crown Court
Woodbridge, Virginia 22193

G. Water Withdrawal

1. The flow of water released from the irrigation pond to the unnamed tributary of the Rappahannock River shall equal or exceed 30 percent of the mean annual flow or the estimated inflow to the pond, whichever of these two flow rates is less. Seepage from the dam may be counted towards this minimum release value.
2. The permittee shall conduct the instream release as required in Part G.1. in accordance with the "Celebrate Virginia! North Pond 12 Minimum Instream Flow Monitoring Procedure" dated October 2010, revised July 2011, and received July 19, 2011, or the most recent DEQ approved plan.

PART II - GENERAL CONDITIONS

A. Duty to Comply

The permittee shall comply with all conditions of the permit. Nothing in these regulations shall be construed to relieve the permittee of the duty to comply with all applicable Federal and State statutes, regulations and toxic standards and prohibitions. Any permit non-compliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, permit termination, revocation, modification, or denial of a permit renewal application.

B. Mitigation Requirements

The permittee shall take all reasonable steps to:

1. Avoid all adverse environmental impact which could result from the activity;
2. Where avoidance is impractical, minimize the adverse environmental impact; and
3. Where impacts cannot be avoided, provide mitigation of the adverse impact on an in-kind basis.

C. Reopener

This permit maybe reopened to modify the conditions of the permit to meet new regulatory standards duly adopted by the Board. Causes for reopening permits include, but are not limited to:

1. When State law prohibits conditions in a permit which are more stringent than an applicable effluent limitation guideline;
2. When subsequently promulgated effluent guidelines are modified and are based on best conventional pollutant control technology; or
3. When the circumstances on which the previous permit was based have materially and substantially changed, or special studies conducted by the Department or permittee show material and substantial change since the time the permit was issued and thereby constitute cause for permit modification or revocation and reissuance.

D. Chance in Management of Pollutants

All discharges and other activities authorized by this permit shall be made in accordance with the terms and conditions of this permit. The permittee shall submit a new application 180 days prior to any modification to their activity which will:

1. Result in a significantly new or substantially increased discharge of dredged or fill material, or a significant change in the nature of the pollutants; or

2. Violate or lead to the violation of the terms and conditions of the permit or the Water Quality Standards of the Commonwealth.

E. Duty to Halt or to Reduce Activity

It shall not be a defense for a permittee in an enforcement action that it could have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

F. Compliance with State and Federal Law

Compliance with this permit constitutes compliance with Virginia Water Protection Permit requirements of the State Water Control Law. Nothing in this permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other State law or regulation or under the authority preserved by Section 510 of the Clean Water Act.

G. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal property rights, nor any infringement of federal, state or local laws or regulations.

H. Severability

The provisions of this permit are severable.

I. Right of Entry

The permittee shall allow authorized State and Federal representatives, upon presentation of credentials at reasonable times and under reasonable circumstances:

1. To enter the permittee's property, public or private, and have access to, inspect, and copy any records that must be kept as part of the permit conditions;
2. To inspect any facilities, operations, or practices (including monitoring equipment) regulated or required under the permit;
3. To sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the permit or as otherwise authorized by law.

For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

J. Transferability of Permits

This permit may be transferred to another person by a permittee if:

1. The current permittee notifies the Department of Environmental Quality, Northern Regional Office, thirty (30) days prior to the proposed transfer of the title to the facility or property;
2. The notice of the proposed transfer includes a written agreement between the existing and proposed new owner containing a specific date of transfer of the permit responsibility, coverage and liability between them; and,
3. The Department of Environmental Quality, Northern Virginia Regional Office, does not within the thirty (30) day time period notify the existing owner of its intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

K. Permit Modification

The applicant shall notify the Department of Environmental Quality of any modification of this project and shall demonstrate in a written statement to the Department that said modification will not violate any conditions of this permit. If such demonstration cannot be made, the permittee shall apply for a modification of this permit.

1. This permit may be modified when any of the following developments occur: When additions or alterations have been made to the affected facility or activity which require the application of permit conditions that differ from those of the existing permit or are absent from it;
2. When new information becomes available about the operation or discharge covered by the permit which was not available at permit issuance and could have justified the application of different permit conditions at the time of permit issuance;
3. When a change is made in the promulgated standards or regulations on which the permit was based;
4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Clean Water Act;
5. When an effluent standard or prohibition for toxic pollutant must be incorporated in the permit in accordance with provisions of Section 307(a) of the Clean Water Act;
6. When changes occur which are subject to "reopener clauses" in the permit;
7. When the Department of Environmental Quality determines that minimum instream flow levels resulting from the permittee's withdrawal of water are detrimental to the instream beneficial use, the withdrawal of water should be subject to further net limitations or when an

area is declared a Surface Water Management Area pursuant to State water Control Law Sections 62.1-242 through 253, during the term of the permit;

8. When the level of discharge of a pollutant not limited in the permit exceeds the level which can be achieved by available methodology for controlling such discharges;
9. When the permittee begins or expects to begin to cause the discharge of any toxic pollutant not reported in the application; or
10. When other states were not notified of the change in the permit and their waters may be affected by the discharge.

L. Permit Termination

This permit, after public notice and opportunity for a hearing, is subject to termination. Causes for termination are as follows:

1. Noncompliance by the permittee with any condition of the permit;
2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at anytime;
3. The permittee's violation of a special or judicial order;
4. A determination that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by permit modification or termination; or
5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge of dredged and fill material controlled by the permit.

M. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

N. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act or Sections 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

O. Unauthorized Discharge of Pollutants

Except in compliance with this permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances, or,
2. Otherwise alter the physical, chemical, or biological properties of such state surface waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.